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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/284,983	05/11/1999	D. LEE MANNER	T8463488US	3065

7590 08/24/2004

GOWLING , LAFLEUR & HENDERSON LLP
COMMERCE COURT WEST
SUITE 4900
TORONTO, ON M5L1J3
CANADA

EXAMINER

CLARKE, SARA SACHIE

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/284,983

Applicant(s)

MANNER, D. LEE

Examiner

Sara Clarke

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,22-33 and 37-53 is/are pending in the application.
- 4a) Of the above claim(s) 23-26,37 and 38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 22 is/are allowed.
- 6) ☒ Claim(s) 27-33 and 39-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/8/04, 4/28/04, 6/30/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Please note that the art unit for this application has changed to 3749. Please direct all future correspondences to this art unit.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27- 33, 38, 39, 44, 45, 48, 49, 51, 52, and 53 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Strickman (US 3070485) in view of Rutherford (US 2007694).

Strickman discloses the invention substantially as claimed with the exception of impregnating the porous carrier or the porous carrier body with a liquefied solid fuel.

Rutherford discloses a fire kindler and teaches the use of impregnating and saturating the carrier with wax so that there will be a predetermined amount of wax in the kindler. See column 1.

Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide method of Strickman with impregnating and saturating so that there will be a predetermined amount of wax.

Claims 40-43, 46, 47, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strickman (US 3070485) and Rutherford (US 2007694) as applied to claims 39, 45, and 48 above, and further in view of Fareri et al. (US 4386937).

Strickman and Rutherford disclose the invention substantially as claimed with the exception of immersing.

Fareri et al. discloses a kindler and teaches the use of submerging the carrier in wax to permeate the entire porous network of the cellulosic substrate to substantially completely fill the interconnected void space. See column 2.

Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the invention of Strickman and Rutherford with immersing as taught by Fareri et al. for the purpose of substantially completely filling the interconnected void space

Allowable Subject Matter

Claims 19 and 22 are allowable.

Response to Amendments and Arguments

With respect to applicant's remarks submitted April 8, 2004, it is noted that the references applied above teach all of the claimed features.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Macleay et al. (US 2094661) and Klink et al. (US 3297420) disclose wax impregnated kindlers.

Contact Information

Any inquiry concerning this or earlier communications from the examiner should be directed to Sara Clarke whose phone number is 703-308-1388. The examiner normally can be reached Mon-Fri, 8:30-1:00.

If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached at 703-308-1935. The fax number for the organization where this application is assigned is 703-872-9306.

Status information for an application is available from the Patent Application Information Retrieval (PAIR) system. Status information for published applications is available from Private or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about PAIR, see <http://pair-direct.uspto.gov>. For questions on access to Private PAIR, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sara Clarke 
Primary Examiner
Art Unit 3749

August 22, 2004